

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

WP(C).No. 2133 of 2005(D)

PETITIONER:

P.G.JACOB, TC NO.7/1596-1,
THIRUMALA, TRIVANDRUM.

BY ADV. SRI.S.MOHANDAS

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY
SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
TRIVANDRUM.
2. DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, TRIVANDRUM.
3. ACCOUNTANT GENERAL (A & E) KERALA,
TRIVANDRUM.

BY GOVERNMENT PLEADER SRI. T.T. MAHMOOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C)NO.2133/05

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF ORDER NO.AC.F.I.22732/2003 DT. 10.10.03 ISSUED BY KERALA UNIVERSITY.
- EXT.P2: TRUE COPY OF G.O. DATED 7.10.1999.
- EXT.P3: TRUE COPY OF LETTER DATED 19.6.2003 ISSUED BY DIRECTOR, HIGHER AND TECH. EDUCATION, GOVT. OF NAGALAND.
- EXT.P4: TRUE COPY OF SERVICE CERTIFICATE DT. 30.3.04 ISSUED BY PRINCIPAL, MAR IVANIOUS COLLEGE.
- EXT.P5: TRUE COPY OF LETTER DATED 17.8.04 ISSUED BY DY. DIRECTOR OF COLLEGIATE EDUCATION. KOLLAM.
- EXT.P6: TRUE COPY OF LETTER DT. 8.10.04 ISSUED BY R3.
- EXT.P7: TRUE COPY OF CIRCULAR DT. 4.6.1990 ISSUED BY GOVT.
- EXT.P8; TRUE COPY OF PAPER REPORT IN MALAYALA MANORAMA.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO.2133 OF 2005

DATED THIS THE 6th DAY OF SEPTEMBER, 2007

JUDGMENT

The petitioner retired from service on 31.3.04 as Selection Grade Lecturer from Mar Ivanious College, Thiruvananthapuram on attaining 55 years of age. The petitioner entered service as an aided College teacher in Kerala from 6.2.1981. Prior to that he was working in Kohima College in Nagaland from 17.9.1973. The grievance of the petitioner in this writ petition is that the period of service put in by him in Nagaland has not been taken into account for the purpose of determining his qualifying service for pension. The petitioner, therefore, seeks the following reliefs.

“i) to declare that the service rendered by the petitioner from 17.9.1973 to 5.2.1981 in outside State College is entitled to be reckoned for retiral benefits.

ii) to issue a writ of mandamus or order or direction to the respondents to reckon the outside service of the petitioner and to revise his retiral benefits, and to disburse the consequential monetary benefits with 10% interest from 8.10.04 onwards till date of payment.

iii) to issue any other writ or order or direction to the respondents as may be considered fit and proper”.

2. The contention of the petitioner is that for the purpose of

granting Selection Grade, the said period of service has been taken into account and therefore, going by Rule 9 of part III of K.S.R. read with Ext.P7 Government order, the period of service put in by the petitioner in Nagaland should also be taken into account for the purpose of determining the qualifying service for pension.

2. I have heard the learned Government pleader also. The learned Government pleader submits that the petitioner's prayer cannot be allowed because his service as a Lecturer in Nagaland was tagged on for the purpose of Selection Grade only because of Ext.P2 order of the Government which specifically permitted the same, that too in view of the guidelines issued by the University Grants Commission. That Government order applies for that purpose alone. Since there are no orders in force which authorises tagging on the service put in in another State for the purpose of granting pension by the State of Kerala, the said period cannot be reckoned as qualifying service for the purpose of granting pension to the petitioner. He further submits that Ext.P7 Circular is not at all applicable because it relates to employees who were absorbed from one service into another service, which is not the case of the petitioner.

3. I have considered the rival contentions in detail. It is true that the petitioner is eligible to get his service in a College in Nagaland for the purpose of granting Selection Grade by virtue of

Ext.P2. But neither in Ext.P2 nor anywhere else is there any stipulation that such service could be counted for the purpose of determining qualifying service for pension also. Qualifying service for pension has to be determined on the basis of Chapter II of Part III of Kerala Service Rules and Government Orders issued in that regard. I do not find any provision in Chapter II or in any Government Order which enables the petitioner to get his service in a College in Nagaland added to his Service in the State of Kerala for the purpose of determining his qualifying service for pension. As pointed out by the learned Government pleader Ext.P7 has absolutely no application for deciding the said issue since the same relates to employees absorbed from one service into another. The petitioner has no case that the petitioner has been absorbed from Nagaland service into the Kerala service.

In the above circumstances, I do not find any merit in this writ petition and accordingly, the same is dismissed.

S. SIRI JAGAN, JUDGE

Acd

